REMARKS

The present Amendment amends claims 1, 5-7, and 10-13, leaves claims 2-4, 8 and 9 unchanged, and adds new claims 14-28. Therefore, the present application has pending claims 1-28.

Claims 11 and 12 stand rejected under 35 USC §101 as being directed to non-statutory subject matter. Amendments were made to claims 11 and 12 to cause the claims to recite statutory subject matter. Specifically claim 11 was amended to recite a useful concrete step and claim 12 was amended to recite an article of manufacture which is a permitted class of statutory subject matter. Therefore, this rejection is overcome and should be withdrawn.

Claims 1-13 stand rejected under 35 USC §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as their invention. Various amendments were made throughout the claims to bring the claims into conformity with the requirements of 35 USC §112, second paragraph. Therefore, reconsideration and withdrawal of the 35 USC §112, second paragraph rejection of claims 2-13 is respectfully requested.

Various amendments were made to the claims to overcome the objections noted by the Examiner in paragraphs 3 and 4 of the Office Action.

The Examiner's cooperation is respectfully requested to contact Applicants' Attorney by telephone should any further indefinite matter be discovered so that appropriate amendments may be made.

Claims 1-13 stand rejected under 35 USC §102(e) as being anticipated by Wolters (U.S. Patent No. 7,107,339). This rejection is traversed for the following reasons. Applicants submit that the features of the present invention

as now more clearly recited in claims 1-13 are not taught or suggested by Wolters whether taken individually or in combination with any of the other references of record. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw this rejection.

Amendments were made to the claims to more clearly describe features of the present invention. Particularly, amendments were made to the claims to more clearly recite that the present invention is directed to a control system, control method, control computer and control program for monitoring an operational state of a system.

According to the present invention the control system includes a control computer and a computer monitored by said control computer.

Further, according to the present invention the control computer includes an interface for receiving an operation performance metric value of each of a plurality of first monitored items from the monitored computer, and a control section for, based on the operation performance metric value of the each first monitored item, determining a second monitored item and issuing an acquisition instruction instructing the monitored computer to obtain an operation performance metric value of said second monitored item, the second monitored item being associated with the each first monitored item.

Still further, according to the present invention the monitored computer includes an interface for receiving said acquisition instruction from the control computer, and a control section for, based on the acquisition instruction, obtaining the operation performance metric value of the second monitored item and transmitting it to the control computer.

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Still further yet, according to the present invention when the operation performance metric value of the each first monitored item is within a risk range, the number of second monitored items is increased, thereby intensively monitoring closely related monitored items, and when the operation performance metric value of the each first monitored item is outside of the risk range, the number of second monitored items is reduced, thereby not intensively monitoring closely related monitored items.

The above described features of the present invention now more clearly recited in the claims are not taught or suggested by any of the references of record whether said references are taken individually or in combination with each other. Particularly the above described features of the present invention now more clearly recited in the claims are not taught or suggested by Wolters whether taken individually or in combination with each other as suggested by the Examiner.

Wolters discloses a predictive monitoring and problem identification method which includes

receiving a plurality of component metrics, each component metric corresponding to a component of a plurality of components of an information technology (IT) infrastructure of an enterprise, and each component of the plurality of components being associated with one or more gross-level rules, generating an indicator set representative of a current state of the IT infrastructure by comparing each received component metric to relevant historical values of the component metric, using the indicator set to diagnose an existing condition or predict a future condition within the IT infrastructure; determining that a gross-level rule is out of compliance, comparing the

indicator set to one or more historical indicator sets to determine whether the indicator set resembles any of the one or more historical indicator sets, performing an appropriate action based on the result of the comparison, and if the indicator set resembles at least one of historical indicator set, performing the appropriate action including inferring a problem associated with the at least one historical indicator set.

However, Wolters does not disclose the functions of the present invention as recited in the claims and as illustrated, for example, in Fig. 6 and described in the corresponding passages of the present application. Specifically, Wolters does not teach or suggest increasing or decreasing a number of monitored items based on a performance of first monitored items during monitoring as in the present invention. Attention is directed to Fig. 6 and the corresponding description at paragraphs [0050] to [0058] and [0067] of the published application of the present application.

Thus, Wolters fails to teach or suggest that <u>when the operation performance metric value of the each first monitored item is within a risk range, the number of second monitored items is increased, thereby intensively monitoring closely related monitored items, and when the operation performance metric value of the each first monitored item is outside of the risk range, the number of second monitored items is reduced, thereby not intensively monitoring closely related monitored items</u> as recited in the claims.

Therefore, Wolters fails to teach or suggest the features of the present invention as recited in the claims and as such does not anticipate nor render obvious the claimed invention. Accordingly, reconsideration and withdrawal of

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the 35 USC §102(e) rejection of claims 1-13 as being anticipated by Wolters is respectfully requested.

The remaining references of record have been studied. Applicants submit that they do not supply any of the deficiencies noted above with respect to the references utilized in the rejection of claims 1-13.

As indicated above the present Amendment adds new claims 14-28 which are dependent on claims 1 and 10-13 respectively. Thus, the same arguments presented above with respect to claims 1 and 10-13 apply as well to new claims 14-28. Therefore, as indicated above the features of the present invention as now recited in the claims, including claims 14-28, are not taught or suggested by any of the references, particularly Wolters, whether said reference is taken individually or in combination with any of the other references of record of record.

In view of the foregoing amendments and remarks, Applicants submit that claims 1-28 are in condition for allowance. Accordingly, early allowance of the present application based on claims 1-28 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (501.43028X00).

Respectfully submitted,
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